

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**Civil Action No.: 1-15-CV-12925**

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**RAOUL MARRADI,**  
**Plaintiff,**

**v.**

**CITY OF BOSTON, AAC FAN HALL REALTY**  
**LLC, AND BOSTON REDEVELOPMENT**  
**AUTHORITY**  
**Defendants.**

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**CITY OF BOSTON,**  
**Third-Party Plaintiff,**

**v.**

**BOSTON REDEVELOPMENT AUTHORITY,**  
**Third-Party Defendant.**

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**BOSTON REDEVELOPMENT AUTHORITY,**  
**Crossclaim Plaintiff,**

**v.**

**AAC FAN HALL REALTY LLC,**  
**Crossclaim Defendant.**

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**DEFENDANT BOSTON REDEVELOPMENT AUTHORITY'S ANSWER TO PLAINTIFF**  
**RAOUL MARRADI'S AMENDED COMPLAINT**

**NOW COMES** the Defendant Boston Redevelopment Authority ("BRA") and hereby  
answers or otherwise responds to the Plaintiff Raoul Marradi's Amended Complaint as follows:

## **JURISDICTION**

1. Paragraph One of the Amended Complaint sets forth legal conclusions that do not require a response. To the extent that an answer is required, Defendant BRA denies the allegations contained in Paragraph One of the Amended Complaint.

## **PARTIES**

2. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Two of the Amended Complaint and, accordingly, denies same.

3. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Three of the Amended Complaint and, accordingly, denies same.

4. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Four of the Amended Complaint and, accordingly, denies same.

5. Defendant BRA denies the allegations set forth in Paragraph Five of the Amended Complaint.

6. Defendant BRA denies the allegation set forth in Paragraph Six of the Amended Complaint.

7. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Seven of the Amended Complaint and, accordingly, denies same.

8. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Eight of the Amended Complaint and, accordingly, denies same.

9. Defendant BRA admits that it is a public entity, owns or lease a portion of the subject premises, and has received federal funds. Defendant BRA otherwise denies the conclusory allegations set forth in Paragraph Nine of the Amended Complaint.

COUNT I  
VIOLATION OF TITLE II AMERICANS WITH DISABILITIES ACT AGAINST THE CITY  
OF BOSTON, MASSACHUSETTS and BRA

10. Defendant BRA repeats and re-avers its answers to Paragraph One through Paragraph Nine above, as if fully set forth herein.

11. Paragraph Eleven of the Amended Complaint sets forth legal conclusions that do not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Eleven of the Amended Complaint.

12. Paragraph Twelve of the Amended Complaint sets forth legal conclusions that do not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Twelve of the Amended Complaint.

13. Paragraph Thirteen of the Amended Complaint sets forth legal conclusions that do not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Thirteen of the Amended Complaint.

14. Paragraph Fourteen of the Amended Complaint sets forth legal conclusions that do not require a response. The Defendant BRA denies the allegations contained in Paragraph Fourteen of the Amended Complaint.

15. Paragraph Fifteen of the Amended Complaint sets forth legal conclusions that do not require a response. The Defendant BRA denies the allegations contained in Paragraph Fifteen of the Amended Complaint.

16. Paragraph Sixteen of the Amended Complaint sets forth legal conclusions that do not require a response. The Defendant BRA denies the allegations contained in Paragraph Sixteen of the Amended Complaint.

17. Defendant BRA denies the allegations set forth in Paragraph Seventeen of the Amended Complaint.

18. Defendant BRA denies the allegations set forth in Paragraph Eighteen of the Amended Complaint. To the extent Paragraph Eighteen constitutes a legal conclusion, no response is required.

19. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Nineteen of the Amended Complaint and, accordingly, denies same. To the extent Paragraph Nineteen constitutes a legal conclusion, no response is required.

20. Defendant BRA denies the allegation that Plaintiff provided any notice to the Defendant BRA before filing the Complaint or the Amended Complaint in this action.

21. Paragraph Twenty-One of the Amended Complaint constitutes a legal conclusion that does not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Twenty-One of the Amended Complaint.

COUNT II  
VIOLATION OF THE REHABILITATION ACT  
AGAINST THE CITY OF BOSTON, MASSACHUSETTS and BRA

22. Defendant BRA repeats and re-avers its answers to Paragraph One through Paragraph Nine, Paragraph Sixteen, and Paragraph Seventeen above, as if fully set forth herein.

23. Defendant BRA denies the allegations set forth in Paragraph Twenty-Three of the Amended Complaint. To the extent Paragraph Twenty-Three constitutes a legal conclusion, no response is required.

24. Defendant BRA denies the allegations set forth in Paragraph Twenty-Four of the Amended Complaint.

25. Defendant BRA denies the allegations set forth in Paragraph Twenty-Five of the

Amended Complaint. To the extent Paragraph Twenty-Five constitutes a legal conclusion, no response is required.

26. Defendant BRA denies the allegations set forth in Paragraph Twenty-Six of the Amended Complaint. To the extent Paragraph Twenty-Six constitutes a legal conclusion, no response is required.

COUNT III  
VIOLATION OF TITLE III OF THE ADA  
AGAINST AAC FAN HALL REALTY LLC

27. Defendant BRA repeats and re-avers its answers to Paragraphs One through Nine, Paragraph Sixteen, and Paragraph Seventeen above, as if fully set forth herein.

28. Paragraph Twenty-Eight of the Third-Party Complaint sets forth legal conclusions that do not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Twenty-Eight of the Amended Complaint.

29. Paragraph Twenty-Nine of the Amended Complaint sets forth legal conclusions that do not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Twenty-Nine of the Amended Complaint.

30. Paragraph Thirty of the Amended Complaint sets forth legal conclusions that do not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Thirty of the Amended Complaint.

31. Paragraph Thirty-One of the Amended Complaint sets forth legal conclusions that do not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Thirty-One of the Amended Complaint.

32. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Thirty-Two of the Amended Complaint and, accordingly, denies same.

33. Paragraph Thirty-Three of the Amended Complaint sets forth legal conclusions that do not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Thirty-Three of the Amended Complaint.

34. Defendant BRA denies the allegations set forth in Paragraph Thirty-Four of the Amended Complaint.

35. Defendant BRA lacks sufficient information to admit or deny the allegation that Plaintiff has attempted to and has, to the extent possible, accessed the subject premises; accordingly, Defendant BRA denies this allegation. Defendant BRA denies the remaining allegations set forth in Paragraph Thirty-Five of the Amended Complaint and, accordingly, denies same.

36. Defendant BRA lacks sufficient information to admit or deny the allegation that Plaintiff intends to visit the subject premises again in the near future in order to utilize all of the goods, services, facilities, privileges, advantages and/or accommodations commonly offered at the subject premises; accordingly, Defendant BRA denies this allegation. Defendant BRA denies the remaining allegation set forth in Paragraph Thirty-Six of the Amended Complaint.

37. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Thirty-Seven of the Amended Complaint and, accordingly, denies same.

38. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Thirty-Eight of the Amended Complaint and, accordingly, denies same.

39. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Thirty-Nine of the Amended Complaint and, accordingly, denies same.

40. Defendant BRA denies the allegations set forth in Paragraph Forty of the Amended Complaint. To the extent Paragraph Forty constitutes a legal conclusion, no response is required.

41. Defendant BRA denies the allegations set forth in Paragraph Forty-One of the Amended Complaint. To the extent Paragraph Forty-One constitutes a legal conclusion, no response is required.

42. Defendant BRA lacks sufficient information to admit or deny the allegations set forth in Paragraph Forty-Two of the Amended Complaint and, accordingly, denies same.

43. Paragraph Forty-Three of the Amended Complaint sets forth legal conclusions that do not require a response. To the extent an answer is required, the Defendant BRA denies the allegations contained in Paragraph Forty-Three of the Amended Complaint.

#### AFFIRMATIVE DEFENSES

##### FIRST AFFIRMATIVE DEFENSE

The Plaintiff fails to state a claim upon which relief may be granted, and the Amended Complaint should be dismissed, pursuant to Fed. R. Civ. P. 12(b)(6).

##### SECOND AFFIRMATIVE DEFENSE

The Defendant BRA does not own, control, operate, or otherwise lease the subject premises and, accordingly, is not subject to liability for any purported violations of Title II of the Americans with Disabilities Act or the Rehabilitation Act on the subject premises.

##### THIRD AFFIRMATIVE DEFENSE

The modifications demanded by the Plaintiff would fundamentally alter the nature of the subject premises.

FOURTH AFFIRMATIVE DEFENSE

The Plaintiff failed to provide proper notice to the Defendant BRA prior to filing this Amended Complaint.

FIFTH AFFIRMATIVE DEFENSE

The Plaintiff lacks standing to bring the Complaint against the Defendant BRA with respect to future unidentified violations.

SIXTH AFFIRMATIVE DEFENSE

The Plaintiff has not suffered damages as a result of any conduct by the Defendant BRA.

SEVENTH AFFIRMATIVE DEFENSE

The Defendant BRA has developed an adequate plan under the Americans with Disabilities Act.

EIGHTH AFFIRMATIVE DEFENSE

For the purposes of this Amended Complaint, the Defendant BRA is not a public entity subject to Title II of the Americans with Disabilities Act.

NINTH AFFIRMATIVE DEFENSE

The modifications demanded by Plaintiff are not readily achievable.

TENTH AFFIRMATIVE DEFENSE

If the Plaintiff suffered injury or damages, as alleged, which Defendant BRA expressly denies, then said injury or damages were caused by the acts, omissions, or regulations of third person(s) over whom Defendant BRA had no control and for whom Defendant BRA is not legally responsible.



ELEVENTH AFFIRMATIVE DEFENSE

The Plaintiff failed to exhaust administrative remedies prior to filing the Amended Complaint.

TWELFTH AFFIRMATIVE DEFENSE

The modifications demanded by the Plaintiff would result in undue financial and administrative burdens.

THIRTEENTH AFFIRMATIVE DEFENSE

Any alleged modifications would be technically infeasible.

FOURTEENTH AFFIRMATIVE DEFENSE

The Amended Complaint fails to adequately describe the premises that are the subject of the Amended Complaint; accordingly, the Amended Complaint should be dismissed,

FIFTEENTH AFFIRMATIVE DEFENSE

If any liability exists on the part of Defendant BRA to the Plaintiff, such liability is to be completely indemnified by Defendant AAC Fan Hall Realty LLC.

SIXTEENTH AFFIRMATIVE DEFENSE

The Amended Complaint is so vague or ambiguous that the Defendant BRA cannot reasonably prepare a response; accordingly, the Amended Complaint should be dismissed.

SEVENTEENTH AFFIRMATIVE DEFENSE

Development of a transition plan, development of a self-evaluation, and the technical construction specifications of the ADAAG, are not enforceable through a private right of action under the ADA.

EIGHTEENTH AFFIRMATIVE DEFENSE

Compensatory damages are unavailable under Title II of the Americans with Disabilities Act and the Rehabilitation Act without proof of intentional discrimination, which Plaintiff has not alleged and has not occurred.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because the claimed violations are "de minimus," and non-actionable, because they do not materially impair Plaintiff's use of an area for an intended purpose.

TWENTIETH AFFIRMATIVE DEFENSE

Failure to request a reasonable accommodation.

DEMAND FOR TRIAL BY JURY

Defendant BRA demands a jury trial as to all claims so triable.

Respectfully submitted,

BOSTON REDEVELOPMENT AUTHORITY  
By its attorney,  
E. Renee LeFevre  
General Counsel

Dated: August 22, 2016

/s/ Sean P. Nehill  
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**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to all unregistered parties via first class mail.

Date: August 22, 2016

/s/ Sean P. Nehill  
Sean P. Nehill